# SINGAPORE REPORTS

## THE ATTORNEY-GENERAL v. LIM POH NEO (W) & ORS.

[O.C.J. (Kulasekaram J.) August 18, 1976]
[Singapore — Suit No. 166 of 1941]

*Trust — Charitable trust — Land upon trust as burial ground for all persons bearing surname "Yeo" and of Hokkien tribe — Government acquisition of said land and compensation made to trustees — Plaintiff's claim against trustees for due execution of trusts and for account of moneys received — Whether land held on charitable trusts and scheme of cy-pres is applicable.*

*Burial Ground — Gift of to members of a clan — Whether charity.*

By an Indenture dated November 8, 1882, one Madam Tan Geok Hup conveyed part of 115 acres of lands to trustees upon trust for use as a burial ground for all persons bearing the surname or clan name "Yeo" and who are of the Hokkien tribe. In the same deed also, there was a proviso for the appointment of new trustees when the need arose.

In October 1934 part of the lands was acquired by the Government for military purposes and compensation was paid to the trustees of the said settlement.

After the date of the Indenture, the said lands were used as a burial ground in execution of the said trust under the said settlement and regular burials had taken place over a long period of years. In 1941, there were numerous squatters' huts on the said lands and small rentals were collected from the squatters there. In May 1941, the Attorney-General on the relation of interested parties of the Hokkien tribe of the "Yeo" clan commenced the suit as plaintiff and claimed against the trustees due execution of the trust settlement and an account of the moneys received by them as trustees of the settlement, particularly, moneys received as compensation awarded as a result of Government acquisition of the said land.

The issue before the court was whether in the events that had happened, the lands were held on charitable trusts, and a scheme of cy-pres should be directed in respect of the moneys from the acquisition of the said lands or the said moneys should now be held on a resulting trust in favour of the estate of the settlor.

The plaintiff argued, *inter alia*, that the settlor had conveyed all the interests in the said lands to the trustees for use as a burial ground for all persons who are of the "Yeo" clan and of the Hokkien tribe and such a gift to charity and not a private gift. He further contended that where property was given outright by a deed for a charitable purpose and once such property had vested in charity (here by the execution of the trusts) it did not fall into residue giving rise to a resulting trust in favour of the estate of the settlor when the charitable purpose became impractical but the property or as here the compensation awarded for the governmental acquisition should be applied for other charitable purposes according to a scheme of cy-pres.

The defendants on the other hand submitted that the gift was not for a charitable purpose as it lacked the element of public benefit. They contended, *inter alia*, that all the persons of the "Yeo" clan and of the Hokkien tribe would make the beneficiaries a "fluctuating body of private individuals" and not a section of the community.

**Held:** (1) a gift of a burial ground to members of a clan is a gift to charity because members of such a clan form a section of the community and cannot be said to be a group of private individuals or a fluctuating group of individuals;

(2) on a proper construction of the Indenture the settlor had made an out and out gift of the property for charity, albeit for a particular charitable purpose. As the gift has failed on the acquisition of the property by the Government and the purpose of the gift has become impossible of performance, the proceeds of the acquisition should be held cy-pres and not held as a resulting trust in favour of the settlor's estate.

*Cases referred to:-*

(1) *Cheang Tew Muey & Ors.* v. *Cheng Lean Neo & Ors.* [1930] S.S.L.R. 58.

(2) *Yeoh Hin* v. *Yeo Cheng Kang* (1889) 4 Ky. 500.

(3) *In re Cooper's Conveyance Trusts* [1956] 1 W.L.R. 1096; [1956] 3 All E.R. 28.

(4) *Gibson & Anor.* v. *South American Stores (Gath & Chaves) Ltd.* [1950] 1 Ch. 177.

(5) *Sir Han Hoe Lim* v. *Lim Kim Seng & Anor.* [1956] M.L.J. 142.

(6) *Wee Chin Ann* v. *Attorney-General* (1940) 2 M.C. 183.

(7) *In re Gillingham Bus Disaster Fund* [1958] 1 Ch. 300.

CIVIL SUIT.

*Philip Hoalim Sr.* (*Y.R. Jumabhoy* with him) for the Attorney-General.

*Goh Heng Leong* for the 1st defendant.

*M.M. Namazie* for the trustees.

**Kulasekaram J.:** By an Indenture dated the 8th day of November 1882 Madam Tan Geok Hup conveyed all her interests in certain lands of extent over 115 acres and more particularly described in the Schedule thereto, hereinafter referred to as the said lands, to trustees and their heirs and assigns and successors in office forever to be held by them upon trusts the primary one of them being for the use of the said lands as a burial ground for all persons bearing the surname or clan name "Yeo" and who are of the Hokkien tribe.

This deed also provided in some detail how the trustees were to carry out these trusts and use it as a burial ground and how new trustees were to be appointed as replacements as and when the need for such appointments arose. It further provided that the trustees or their successors in office should not sell, mortgage or demise any part or parts of the said premises or otherwise incumber the same.

By diverse deeds of appointment or by orders of court new trustees had been appointed from time to time in place of earlier trustees and from September 1931 the trustees were Yeo Kiat Seng, the original first defendant in this suit, and Chua Chwee Lim.

In October 1934 a portion of the said lands in extent 9 acres 3 roods and 02.7 poles was acquired by the Government for military purposes and compensation of $11,715 was awarded for the land and a further sum at the rate of $50 for every corpse exhumed from the acquired portion of the land and reburied on the remaining land of the settlement towards expenses incurred by the trustees. This compensation money was paid to the trustees of the said settlement pursuant to an order of court dated April 15, 1935.

From the June 12. 1935 the trustees of the said settlement were Yeo Kiat Seng and Sim Kim Hock, the second defendant in this suit.

After the date of the Indenture the said lands have been used as a burial ground in execution of the said trust under the said settlement and regular burials had taken place over a long period of years. In 1941, the year of the commencement of this suit, there were numerous squatters' huts on the said lands and small rentals were collected from the squatters there.

In May 1941 the Attorney-General on the relation of certain interested persons who were office bearers in an association of the Hokkien tribe of the "Yeo" clan commenced this suit as the plaintiff claiming from the then trustees the first and second defendants due

execution of the trusts of the said settlement and an account of the moneys received by them as trustees of the said settlement and in particular the sum of $11,715 received by one or either of them as compensation award for the portion of the land acquired by the Government in 1935. In addition various other reliefs were also claimed as contained in the statement of claim.

Yeo Kiat Seng the first defendant in this suit and a trustee of the settlement died on November 8, 1955 and Sim Kim Hock the second defendant in this suit and the other trustee of the settlement at the commencement of the suit retired from the trusteeship shortly after August 1957. After further changes, from September 1961 the trustees of the said settlement were Yeo Seng Chuan and Yeo Cheong Lui.

In 1969 the whole of the remaining land of the said settlement with the exception of a small portion less than 3 acres was acquired by the Government. In Originating Summons No. 13 of 1969 the Collector of Land applied for an Order of Court to pay into court the sum of $1,599,190 being the amount of compensation awarded for the acquisition of the said lands and subsequently paid into court this amount.

On February 20, 1969 Madam Lim Poh Neo the widow of Yeo Kiat Seng entered appearance in Originating Summons No. 13 of 1969 claiming she was the sole beneficiary of the estate of Madam Tan Geok Hup deceased, the settlor, and entitled to the proceeds of the acquisition.

Shortly thereafter on the application of the plaintiff by order of court dated May 23, 1969 Madam Lim Poh Neo, the widow executrix of the first defendant, was substituted as the first defendant in place of Yeo Kiat Seng and by the same order of court the present trustees of the said settlement Yeo Seng Chuan and Yeo Cheong Lui were also added as the third and fourth defendants in this suit.

By order of court dated March 2, 1970 the plaintiff was appointed to represent all persons interested in arguing that the said lands were and are held on valid charitable trusts and a scheme cy-pres ought to be directed in respect of the moneys from the acquisition of the said lands while the first defendant was appointed to represent all persons interested in arguing that the said moneys were now held on a resulting trust in favour of the estate of the settlor.

The hearing before me was pursuant to this order of court dated March 2, 1970 on the issue whether in the events that had happened the said lands were held on valid charitable trusts and a scheme of cy-pres should be directed in respect of the moneys from the acquisition of the said lands or the said moneys should now be held on a resulting trust in favour of the estate of the settlor.

Mr. Philip Hoalim, counsel for the plaintiff, submitted that Madam Tan Geok Hup, the settlor, by the said Indenture conveyed all the interests in said lands forever to the trustees for use as a burial ground for all persons who are of the "Yeo" clan and of the Hokkien tribe. Such a gift of the provision of a burial ground was a gift to charity or for a charitable purpose and not a private gift or bounty.

Secondly on a proper construction of the said Indenture dated 8th day of November 1882 the settlor here had made an out and out gift of the said lands to charity and had parted completely with all her interests in the said lands forever and she had thereby completely divested herself of all her interests in the said lands.

It was further submitted that the language and terms of the said Indenture were quite clear and unambigous and was capable of no other construction on this point. Moreover the settlor to make her intentions doubly sure had also received a consideration of one Spanish Dollar for conveying all her interests of whatever nature in the said lands forever from her.

Thirdly he submitted that since the date of the said Indenture the trusts contained therein has been executed, that is to say, burials on the said settled lands in accordance with the said Indenture had regularly taken place for over three-quarters of a century up to the time when the said lands were almost completely acquired by the Government in 1969.

In the circumstances he submitted the question of whether the settlor had displayed a general charitable intention or not is quite irrelevant here. This was because it is now settled law both here as well as in England that where property is given outright by a Will or by a Deed as in this case for a charitable purpose and once such property has vested in charity (here by the execution of the trusts) it does not fall into residue giving rise to a resulting trust in favour of the estate of the settlor when the charitable purpose becomes impractical or incapable of being carried out, but the property or as here the compensation awarded for the acquisition of the said lands are applied for other charitable purposes according to a scheme cy-pres to be directed.

On the other hand Mr. Goh Heng Leong counsel for the first defendant representing here all persons interested in arguing that there was a resulting trust in favour of the estate of the settlor submitted first that the gift of the said lands as a burial ground for the use of all persons of the "Yeo" clan who were of the Hokkien tribe was not a gift to charity or for a charitable purpose as it lacked the element of public benefit. It was not a gift for the benefit of the community or the public at large or even a section of the community. All persons of the "Yeo" clan by itself and even more so with the added restriction that they be also of the Hokkien tribe would make the beneficiaries rather a group of private individuals or a "fluctuating body of private individuals" and not a section of the community.

He referred to the local case of *Cheang Tew Muey & Ors.* v. *Cheang Lean Neo & Ors.*,[1] where Murison C.J. held that a gift or trust of a burial ground to persons belonging to the "Seh" or tribe called "Cheang" was a good gift to charity or for a charitable purpose. It was submitted that Murison C.J. was in error here as he had wrongly applied the decision in *Yeoh Hin* v. *Yeo Cheng Kang*.[2] In that case it was decided that a "Seh" Kongsi which was a Society or Association of the "Seh" or clan and having for its objects charitable purposes like the maintenance of a "Seh" Kongsi house as a refuge for needy and unemployed members of the "Seh" or clan was a public charity. The issue in *Cheang's* case was quite different from the issue in *Yeoh Hin's* case.

Be that as it may, I find a gift of a burial ground to members of a clan or "Seh", be it to the clan of the "Yeos" or the clan of the "Cheangs" is a gift to charity because members of such a clan or "Seh" form a section of the community and cannot be said to be a group of private individuals or a fluctuating group of individuals.

I also find that the further limitation that these persons of the "Yeo" clan should also belong to the Hokkien tribe does not make that body of people so small or limited that they could not now be considered as forming a section of the community. I find the gift here was a good charitable gift.

Mr. Goh next submitted that if it was held that it was a gift to charity then it was only a gift to a particular charity or for a particular charitable purpose. The donor here by the trust deed had given the land to the trustees for the specific charitable purpose that it be used as a burial ground for persons bearing the surname or clan name Yeo who are also of the Hokkien tribe. The trustees were prohibited from selling or otherwise disposing of the land. There was here nothing more than a limited gift to a particular charity and not a gift to charity generally. In other words the donor here had displayed no general charitable intention.

It was further submitted that in Singapore on the authorities it appeared that when such a charitable gift or purpose as here has failed, either initially or subsequently, then, unless the donor had displayed a general charitable intention the remaining interests in the land or the proceeds of the sale or the acquisition of the land would not be applied according to a cy-pres scheme to charity but would be held on a resulting trust for the estate of the donor. He relies on the decision in *Cheang Tew Meng & Ors.* v. *Cheang Cheow Lean Neo & Ors.*[1] In that case the donor, one Cheang Hong Lim, since deceased, by an Indenture dated May 31, 1873 settled certain property upon trusts to be used as a burial ground for persons belonging to the 'Seh' or Tribe called 'Cheang' for ever or for so long as the same shall not be found to be repugnant to the English law. The land in question was subsequently acquired by the Government and compensation in the sum of $54,000 was paid for it. The question was how were these compensation moneys to be dealt with. Murison C.J. having construed that Deed of Indenture held there was a charitable gift of the land. He further held that as there was no general charitable intention manifested in this gift the funds should not be applied to charity according to a cy-pres scheme but should fall into the residuary fund of the donor's estate.

Next in connection with the question whether the settlor had made an out and out gift of the property, Mr. Goh submitted that on a proper construction of the Indenture it should be found that the settlor had not made such an out and out gift of the property. What the settlor had done here was that he had conveyed to the trustees, their heirs and assigns for ever only the whole of legal estate in said lands but there was no mention that the trusts that were directed by this Indenture were to go on for ever. Therefore he submitted the settlor had not parted completely with the beneficial interests in the property. Again referring to the consideration of one Spanish dollar he posed the question that as that consideration was given by the trustees to the settlor whether it could be said that the settlor had conveyed all the beneficial interests in the property out and out for ever to the trustees. This could not be so as trustees were directed to use the property for the several trusts stated therein and it was not for their own use. So this giving of one Spanish dollar by the trustees to the settlor could not have any relevance on the question whether the settlor had in fact parted with all her beneficial interests in the property or not. Mr. Goh ventured to suggest that this consideration of one Spanish dollar had been given by the trustees and received by the settlor to ensure that the trustees had contractually bound themselves to the settlor to carry out faithfully the various directions of the trusts that the settlor had made.

He urged this court to follow the decision in *In re Cooper's Conveyance Trusts.*[3] In that case too the settlor by a Deed of Conveyance had conveyed all the legal estate in certain land and property to trustees "their heirs and assigns for ever" in trust for the purposes of an Orphan Girls' Home but the trusts incurred were also not expressed to be limited in time or in perpetuity just like the position in our present case. However the settlor there had provided that upon failure of that trust the land and property in question were to go over to a non-charitable purpose mentioned in her will. This provision was held to be invalid as it offended the rule against perpetuity.

The trust having failed subsequently as the Orphan Girls' Home had to close down the question arose whether the land and property should be applied cy-pres according to a scheme for some other charitable purpose or be held on a resulting trust in favour of the estate of the settlor.

Upjohn J. in considering this question observed that if there was an initial out and out or perpetual gift to charity albeit to a particular charity or to a particular charitable purpose and that charity or charitable purpose failed after the gift had vested in interest then it would in a sense be irrelevant to consider whether the settlor had a general charitable intention. This was because the settlor had initially made an out and out gift to charity, although to a particular charity or charitable purpose and had reserved no interest in himself for any resulting trust to arise in favour of the settlor's estate. Upjohn J. then continued:

"Where, however, the donor uses language showing an intention that in some circumstances he contemplates a failure of the purpose or indicates that his gift is only to be for a limited time or purpose, then it becomes a question of construction, whether he has made an out and out or perpetual gift to charity or not, and that is not inaptly expressed by asking whether he has evinced a general charitable intention. Whatever language is used, however, the whole question is what are the donor's intentions, to be ascertained on a true construction of the relevant surrounding circumstances. Thus, even where the gift is in the first place unlimited in time but is followed by clauses of defeasance or powers of revocation, it is a question of construction whether a donor intended to devote his gift to charity out and out or in perpetuity or only for a limited purpose and period."

Upjohn J. then proceeded to construe that Deed of Conveyance on those lines and came to the conclusion that the settlor in that case

"intended a gift to charity only for a limited time and for a limited purpose; that is to say, the time limited by the

time for which the orphanage could be carried on. That period having come to an end, in my judgment, there is an interest in the donor remaining undisposed of; that is held upon trust for her estate by way of resulting trust."

On that same reasoning Mr. Goh submitted that in the present case the settlor had intended a gift to charity only for a limited time and purpose, that is to say, the gift was limited in time for so long as the property could be used as a burial ground for persons bearing the surname or clan name "Yeo" and were of the Hokkien tribe. As that period had come to an end due to the acquisition of the said property by the Government there was now an undisposed interest in that property that should be held upon a resulting trust in favour of the settlor's estate.

Mr. Goh further submitted that even though there was no provision here for a gift over as in *Cooper's Trust* case or a power to modify or revoke the gift as in the case of *Gibson & Anor.* v. *South American Stores (Gath & Chaves) Ltd.*,[4] those facts should not preclude this court from coming to the conclusion that he has just suggested.

While I fully agree with the conclusions in *Cooper's Trust* case and following the same reasoning as there and construing the Indenture in the present case I find that the settlor in our case has made an out and out gift of the property to charity and it was not for a limited time and for a limited purpose as in *Cooper's Trust* case. Upjohn J. in that case found that the settlor there had evinced the clearest possible intention that when that particular charity came to an end the property the subject of the gift, was to go over to a non-charitable purpose mentioned in the settlor's will. Upjohn J. also found further material in that Deed to confirm the conclusion he had arrived at there. In the Indenture in the present case before me there were no such provisions or for that matter any provision from which I could find that the settlor here had "evinced the clearest possible intention" or for that matter any clear intention at all that the gift was not an out and out gift to charity but one for a limited time and for a limited purpose. By the Indenture here the property was conveyed to the trustees, their heirs and assigns and successors for ever and they were entrusted to use the property as a burial ground and allow all persons of the Hokkien tribe bearing the surname or clan name "Yeo" to be buried there. The Indenture also contained elaborate directions of how the trustees were to administer the property as a burial ground. The Indenture also provided that the trustees were not to sell, mortgage or otherwise part with the said lands.

The Indenture however as I have indicated earlier was silent on whether the trusts incurred here were to be either limited in time or in perpetuity. The settlor had not contemplated a failure of the trusts provided here because he had made no provision in the Indenture for any such eventuality.

Mr. Goh also submitted the words in the Indenture to hold the property "to and for the several uses, intents and purposes upon the several trusts and with under and subject to the several powers, provisions, limitations hereinafter expressed and declared of and concerning the same" should be construed to mean that the trustees were to hold the property "to and for the several uses, interests and purposes, etc.... and *for no other use or purpose.*" He relies for this submission on the case of *Sir Han Hoe Lim* v. *Lim Kim Seng & Anor.*[5] where the words in the Indenture "upon and for the charitable trusts and purpose following" were construed in effect to mean "upon the particular charitable trusts set out in this document and no others".

I am not impressed with this submission and in my view I would not be justified in construing this Indenture in that manner because it would be tantamount to introducing a limitation where the settlor herself had made no such provision in the Indenture.

I find that on a proper construction of the Indenture here the settlor had made an out and out gift of the said property for charity, albeit for a particular charitable purpose, The settlor had reserved no interests in the property for herself. She had made an out and out gift of it. Her directions that the trustees should not sell, mortgage or otherwise part with the property was again a further step taken by the settlor to ensure that the property was preserved for the charitable purpose for which she had given the property. In my view the settlor never contemplated a possible failure of the gift when she imposed this limitation on the powers of the trustees. She had not tried by this limitation to reserve or preserve any interests for herself should such an eventuality arise. This out and out gift was to that section of the Hokkien tribe or community whose members bear the surname or clan name "Yeo" to use the property as a burial ground for ever. The gift had taken effect because the property had been so used as a burial ground for a number of years, about three-quarters of a century.

The property has now been almost completely acquired by the Government and therefore the gift has failed as the purpose of the gift has become impossible of performance. So on the basis of the decision in *Wee Chin Ann* v. *Attorney-General*,[6] I find that the proceeds of the acquisition here should be applied cypres to some other charity and not held on a resulting trust in favour of the settlor's estate. It would not be necessary for me to further enquire whether the settlor had a general charitable intention or not before making such a direction.

In *Cheang's* case, as I have already mentioned, the proceeds of acquisition on the failure of a similar gift were not applied cy-pres to other charities but fell into the residuary fund of the settlor's estate because the settlor had no general charitable intention. This decision in *Cheang's* case appears to have been made on the basis that the gift had not taken effect because the burials, if any, that had taken place were considered illegal and therefore is different from the circumstances in the present case. It was probably treated as a case of initial failure of the gift.

I was also referred by Mr. Goh to the case *In re Gillingham Bus Disaster Fund*,[7] where the donors made contributions without any reservations in response to a public appeal and where there was a surplus of the fund after fulfilling the purpose for which the collection was made, and it was held that this surplus should not be applied cy-pres for other charitable purposes but should be returned to the donors on a resulting trust. In this type of public appeal cases one must look at the particular appeal and where it is

clear from the appeal that the donor was making the gift to a particular purpose *only* even without any reservations and without expecting any return of the gift, upon a failure of the purpose as the donor's intention has been "cheated" he was entitled for the return of that portion of his donation which had not been exhausted on the purpose for which he had made the gift.

However in the present gift here where the settlor was not responding to any public appeal but was on her own making an out and out charitable gift for a particular purpose and where the settlor has not contemplated the eventuality of the failure of that gift for that particular purpose then the law will assume, particularly where the original gift had taken effect and effectively vested in charity, that the settlor in such cases would have desired and directed that the charitable gift was intended for the persons for whose benefit the original gift which had failed was meant and so the court will direct that the proceeds of the acquisition upon the failure of the original purpose should be applied cy-pres for other charitable purposes which would benefit the same group of beneficiaries. In such a case, there is no clear indication that the settlor had intended to benefit the beneficiaries in that one way only and in no other way. It may well have been that the settlor intended the gift for the benefit of beneficiaries and she wanted to benefit them in that particular way but if that way was not possible she would have desired to benefit them in some other like manner. It is reasonable to assume that this was so as she has parted completely with all her interests in the said lands and has left nothing for herself.

Mr. Goh took a further point that if it was found here that the settlor had made an out and out gift for a particular charity or charitable purpose then he submitted that the gift had only taken effect in respect of that part of the property which could be used as a burial ground only and not in respect of the rest of the land. In respect of that portion of the land which was unsuitable for use as a burial ground the gift had failed *ab initio* and a resulting trust in favour of the settlor's estate would arise in respect of that portion of the gift and so that portion of the proceeds of the acquisition should now be held on a resulting trust in favour of the estate of the settlor. Mr. Goh relied for his submission that part of the said property was not suitable for use as a burial ground on the basis of a survey conducted in 1970 by the surveyor, Tan Chin Huat. According to his affidavit relating to this survey filed in these proceedings in August 1975 he found that various parts of the property could not be used as a burial ground for one or other of the following reasons:—

(a) low lying swampy and muddy land liable to flooding,
(b) land covered with heavy secondary jungle with steep gradients,
(c) irregular land covered with ravines and drains and with steep gradients.

I am not convinced by this submission. Though part of the property in the state it was at the time of the survey was unsuitable for use as a burial ground there was nothing to show that whatever impediments there were could not have been overcome and those portions made suitable for use as a burial ground generally. Moreover the property in my view must be considered as a whole and should not be carved out into sections like this and then considered section by section to decide whether the land was suitable for use as a burial ground or not. The fact that these unsuitable portions scattered all over the area added up to almost half the whole land does not in my view alter the situation in any way. In addition *the Report of the Committee Regarding Burial and Burial Grounds* published in 1952 also showed that the whole land in question had been registered or licensed as a Burial Ground.

I find the whole of the said land the subject of the charitable gift here had effectively vested in charity and therefore the proceeds from the acquisition of the said land should now be applied to other charitable purposes according to a scheme cy-pres to be formulated by the trustees and approved by the court.

Now on the question of costs counsel for the plaintiff at the very outset of the hearing objected to separate representation here by the trustees and submitted that they should not be entitled to a separate set of costs. Counsel for the plaintiff also submitted that the costs of the first defendant in the event of her not succeeding should not come out of the trust funds.

I find that an application like the present one which mainly involved the construction of the Indenture creating the trusts would normally have been initiated by the trustees probably in Originating Summons No. 13 of 1969 and not in this suit. Then the proper order for costs would be that the costs of all the 3 parties be paid from the trust funds. Here however this application was made by the plaintiff but that in my view should not affect the order for costs. The trustees were served with all the documents relating to this hearing and they were properly before me. In the circumstances the costs of the 3 parties would be paid out from the proceeds from the acquisition of the said lands.

*Order accordingly.*

Solicitors: *Philip Hoalim & Co.; Allen & Gledhill; Mallal & Namazie.*

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## TAN AH CHYE v. CHIN KON SANG

**[O.C.J. (Kulasekaram J.) May 26, 1976]**
**[Singapore — Suit No. 2329 of 1974]**

*Torts — Accident — Collision between motorcycle and motor-car — Plaintiff injured — Quantum — Assessment of damages — Liability on 2:3 basis.*

*Damages — Personal injury — Leg.*

The plaintiff sued the defendant for damages for personal injuries suffered by him in a road traffic accident where his motor cycle ridden by him was involved in a collision with a motor car driven by the defendant. The plaintiff suffered the following injuries: (1) Closed fracture midshaft or right femur; (2) Avulsion of right posterior cruciate ligament with haemar-throsis of the knee-joint; (3) Fracture lower pole of right patella; (4) 2½ cm. laceration front of right knee. He had some loss of knee flexion which prevented him from squatting fully, and had an intramedullary nail introduced into the femur to fix the fracture which had to be removed by a further operation.